IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.897 OF 2006

Appasaheb Mahadev Patil .. Petitioner

Vs.

State of Maharashtra & Ors. . Respondents

Mr.Shrinivas S.Patwardhan for the petitioner

Shri V.B.Rajure for respondent no.2 and 3

Mr.K.V.Saste, A.P.P. for the State

CORAM : J.N.PATEL, J

DATED : 23RD JANUARY, 2007

P.C.:

1. Heard.

2. The petitioner has impugned the order passed by the Executive Magistrate which came to be confirmed in Revision by the 3rd Adhoc.Addl.Sessions Judge, Kolhapur by his judgment and order dt.24.2.06. The proceedings arise out of vacating of an interim order passed u.s.146(1) of the Cr.P.C. relating to agricultural land having

Gat No.163 B (old) Revenue Survey No.69/4 admeasuring 37R situated at Anur, Taluka Kagal, District Kolhapur.

3. The proceedings u.s.145 of the Cr.P.C. came to be initiated as there was a likelihood of breach of peace relating to the possession of the land in question. The learned Magistrate found that inspite of repeated opportunities the petitioner who is original party no.2 to the proceedings pending before the Executive Magistrate has not filed any affidavit in reply or contested the issue. It is also observed that even the Civil Judge, Jr.Division, Kolhapur could not grant any relief in their favour and therefore, the interim order came to be vacated which was challenged in Revision in the court of Sessions which upheld the order.

4. The learned counsel for the petitioner submitted that the petitioner has purchased the land in question from the father of the respondents, of which admittedly the possession is with the respondents. It is the case of the

petitioner that the respondents are claiming that their father could not alienate the land as it was vatan land, it is not transferable. Further, the petitioner has initiated civil suit seeking declaration and possession of land in dispute.

5. Therefore, in the aforesaid facts and circumstances and in view of the fact and for the reason that the petitioner is admittedly not in possession of the land and the matter is sub-judice before the Civil Court, no interference is called for as the impugned order does not affect the rights of the parties. Petition, therefore stands dismissed.

(SHRI J.N. PATEL, J)